



House of Representatives

General Assembly

File No. 621

January Session, 2003

Substitute House Bill No. 6567

House of Representatives, May 1, 2003

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE AGE OF A CHILD FOR PURPOSES OF JURISDICTION IN JUVENILE MATTERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 46b-120 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 The terms used in this chapter shall, in its interpretation and in the
4 interpretation of other statutes, be defined as follows:

5 (1) "Child" means (A) before October 1, 2006, any person under
6 sixteen years of age, [and, for purposes of delinquency matters, "child"]
7 (B) on and after October 1, 2006, and before October 1, 2007, any
8 person under seventeen years of age, and (C) on and after October 1,
9 2007, any person under eighteen years of age;

10 (2) "Delinquent child" means any [person (A) under sixteen years of
11 age, or (B) sixteen years of age or older who, prior to attaining sixteen
12 years of age,] child who has violated any federal or state law or

13 municipal or local ordinance, other than [an ordinance regulating
14 behavior of a child in a family with service needs, and, subsequent to
15 attaining sixteen years of age, violates] a motor vehicle infraction, or
16 has violated any order of the Superior Court or any condition of
17 probation ordered by the Superior Court with respect to [such] a
18 delinquency proceeding;

19 [(2) "youth"] (3) "Youth" means any person sixteen or seventeen
20 years of age;

21 [(3) "youth in crisis"] (4) "Youth in crisis" means any youth who [,
22 within the last two years,] (A) has without just cause run away from
23 the parental home or other properly authorized and lawful place of
24 abode, (B) is defiant, rebellious and beyond the control of his or her
25 parent or parents, guardian or other custodian, or (C) [has four
26 unexcused absences from school in any one month or ten unexcused
27 absences in any school year] is a truant or habitual truant or, while in
28 school, has been continuously and overtly defiant of school rules and
29 regulations;

30 [(4) "abused"] (5) "Abused" means that a child or youth (A) has been
31 inflicted with physical injury or injuries other than by accidental
32 means, or (B) has injuries that are at variance with the history given of
33 them, or (C) is in a condition that is the result of maltreatment such as,
34 but not limited to, malnutrition, sexual molestation or exploitation,
35 deprivation of necessities, emotional maltreatment or cruel
36 punishment;

37 [(5) a] (6) A child may be found "mentally deficient" who, by reason
38 of a deficiency of intelligence that has existed from birth or from early
39 age, requires, or will require, for [his] such child's protection or for the
40 protection of others, special care, supervision and control;

41 [(6) a] (7) A child may be convicted as "delinquent" who has
42 violated (A) any federal or state law or municipal or local ordinance,
43 other than [an ordinance regulating behavior of a child in a family
44 with service needs] a motor vehicle infraction, (B) any order of the

45 Superior Court, or (C) conditions of probation as ordered by the court;

46 [(7) a] (8) A child or youth may be found "dependent" whose home
47 is a suitable one for the child or youth, save for the financial inability of
48 parents, parent, guardian or other person maintaining such home, to
49 provide the specialized care the condition of the child or youth
50 requires;

51 [(8) "family with service needs"] (9) "Family with service needs"
52 means a family that includes a child who (A) has without just cause
53 run away from the parental home or other properly authorized and
54 lawful place of abode, (B) is defiant, rebellious and beyond the control
55 of his or her parent [,] or parents, guardian or other custodian, [(C) has
56 engaged in indecent or immoral conduct, (D)] or (C) is a truant or
57 habitual truant or, [who,] while in school, has been continuously and
58 overtly defiant of school rules and regulations; [, or (E) is thirteen years
59 of age or older and has engaged in sexual intercourse with another
60 person and such other person is thirteen years of age or older and not
61 more than two years older or younger than such child;]

62 [(9) a] (10) A child or youth may be found "neglected" who (A) has
63 been abandoned, or (B) is being denied proper care and attention,
64 physically, educationally, emotionally or morally, or (C) is being
65 permitted to live under conditions, circumstances or associations
66 injurious to the well-being of the child or youth, or (D) has been
67 abused;

68 [(10) a] (11) A child or youth may be found "uncared for" who is
69 homeless or whose home cannot provide the specialized care that the
70 physical, emotional or mental condition of the child requires. For the
71 purposes of this section, the treatment of any child by an accredited
72 Christian Science practitioner in lieu of treatment by a licensed
73 practitioner of the healing arts, shall not of itself constitute neglect or
74 maltreatment;

75 [(11) "delinquent act"] (12) "Delinquent act" means the violation of
76 any federal or state law or municipal or local ordinance, other than [an

77 ordinance regulating the behavior of a child in a family with service
78 needs] a motor vehicle infraction, or the violation of any order of the
79 Superior Court;

80 [(12) "serious juvenile offense"] (13) "Serious juvenile offense" means
81 (A) the violation, [by a child,] including attempt or conspiracy to
82 violate, [sections] by a child of section 21a-277, 21a-278, 29-33, 29-34,
83 29-35, 53-21, 53-80a, 53-202b [,] or 53-202c, sections 53-390 to 53-392,
84 inclusive, 53a-54a to 53a-57, inclusive, 53a-59 to 53a-60c, inclusive, or
85 53a-70 to 53a-71, inclusive, section 53a-72b [,] or 53a-86, sections 53a-92
86 to 53a-94a, inclusive, section 53a-95, 53a-101, 53a-102a [,] or 53a-103a,
87 sections 53a-111 to 53a-113, inclusive, subdivision (1) of subsection (a)
88 of section 53a-122, subdivision (3) of subsection (a) of section 53a-123,
89 section 53a-134, 53a-135, 53a-136a, 53a-166 [,] or 53a-167c, subsection
90 (a) of section 53a-174 [,] or section 53a-196a, 53a-211, 53a-212, 53a-216
91 or 53a-217b, or (B) running away, without just cause, from any secure
92 placement other than home while referred as a delinquent child to the
93 Court Support Services Division or committed as a delinquent child to
94 the Commissioner of Children and Families for a serious juvenile
95 offense;

96 [(13) "serious juvenile offender"] (14) "Serious juvenile offender"
97 means any child convicted as delinquent for commission of a serious
98 juvenile offense;

99 [(14) "serious juvenile repeat offender"] (15) "Serious juvenile repeat
100 offender" means any child charged with the commission of any felony
101 if such child has previously been convicted delinquent at any age for
102 two violations of any provision of title 21a, 29, 53 or 53a that is
103 designated as a felony;

104 [(15) "alcohol-dependent child"] (16) "Alcohol-dependent child"
105 means any child who has a psychoactive substance dependence on
106 alcohol as that condition is defined in the most recent edition of the
107 American Psychiatric Association's "Diagnostic and Statistical Manual
108 of Mental Disorders";

109 [and (16) "drug-dependent child"] (17) "Drug-dependent child"
110 means any child who has a psychoactive substance dependence on
111 drugs as that condition is defined in the most recent edition of the
112 American Psychiatric Association's "Diagnostic and Statistical Manual
113 of Mental Disorders", [. No] provided no child shall be classified as
114 drug dependent who is dependent (A) upon a morphine-type
115 substance as an incident to current medical treatment of a
116 demonstrable physical disorder other than drug dependence, or (B)
117 upon amphetamine-type, ataractic, barbiturate-type, hallucinogenic or
118 other stimulant and depressant substances as an incident to current
119 medical treatment of a demonstrable physical or psychological
120 disorder, or both, other than drug dependence; and

121 (18) "Run away" means to leave the parental home or other properly
122 authorized and lawful place of abode for at least twenty-four hours
123 without just cause.

124 Sec. 2. (*Effective from passage*) The Chief Court Administrator, the
125 Commissioner of Children and Families, the Commissioner of
126 Correction, the Chief State's Attorney, the Chief Public Defender and the
127 Child Advocate, or their designees, shall form an implementation team
128 that shall review all matters necessary to implement the increase in the
129 age limit for purposes of jurisdiction in juvenile matters, as provided in
130 subdivision (1) of section 46b-120 of the general statutes, as amended by
131 this act, by the dates specified in said subdivision. Not later than January
132 15, 2004, the implementation team shall submit a report concerning the
133 progress made, the matters remaining to be accomplished, any
134 impediments and any recommendations with respect to such
135 implementation to the joint standing committee of the General Assembly
136 having cognizance of matters relating to the judiciary and the select
137 committee of the General Assembly having cognizance of matters
138 relating to children. The report required by this section shall be
139 submitted in accordance with section 11-4a of the general statutes.

This act shall take effect as follows:	
Section 1	October 1, 2003

Sec. 2	<i>from passage</i>
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JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$	FY 07 \$
Judicial Dept.; Children & Families, Dept.; Criminal Justice, Div.; Pub. Defender Serv. Com.; Correction, Dept.	GF - Cost; Savings; Reallocation of Resources	None	None	Significant
Child Advocate, Off.	GF - None	None	None	None

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill expands the juvenile court's jurisdiction to include 16 and 17 year-olds. This change is to occur over a two-year period, FY 07 through FY 08, and would have a significant fiscal impact on a number of state agencies that is yet to be determined. The timing and amount of costs, savings and reallocations of resources that would be needed in advance of the expansion scheduled to take place in FY 07 and FY 08 is also unknown at this time. The bill establishes an implementation team that must review and report to the Judiciary and Children's committees by January 15, 2004, on the progress of implementation and make recommendations. This could be accomplished within anticipated budgetary resources.

The bill redesignates certain status offenses as delinquent acts in accordance with the future changes explained above. A significant cost would be incurred.

OLR Bill Analysis

sHB 6567

***AN ACT CONCERNING THE AGE OF A CHILD FOR PURPOSES
OF JURISDICTION IN JUVENILE MATTERS*****SUMMARY:**

This bill establishes a two-step phase-in to increase the age limits for participation in the juvenile justice system. Currently, youngsters over age 15 charged with criminal offenses are prosecuted and supervised in the adult criminal justice system. Sixteen- and 17-year-olds will come within the juvenile court's delinquency jurisdiction on October 1, 2006, and October 1, 2007, respectively.

The bill creates an implementation team comprised of the (1) chief court administrator; (2) correction and children and families commissioners; (3) chief state's attorney and public defender; and (4) child advocate, or their designees. The team must review and report to the Judiciary and Children's committees by January 15, 2004 on implementation progress, things to be accomplished, impediments, and recommendations.

The bill excludes motor vehicle offenses from the delinquency law but restores the juvenile court's jurisdiction over violations of ordinances regulating the behavior of a child in a family with service needs (FWSN). As under current law, prosecutors retain the authority to ask judges to transfer felony cases from the juvenile to the regular adult criminal docket on a case-by-case basis.

It also revises the definitions of "youth in crisis" (YIC) and "family with service needs," making their behavioral components uniform and extending existing FWSN procedures and sanctions to YIC cases. By law, family (civil) courts have jurisdiction over cases involving these youngsters, who are accused of offenses that would not be crimes if committed by adults (status offenses, such as running away from home or truancy).

EFFECTIVE DATE: October 1, 2003, except the implementation team provision is effective upon passage.

FAMILIES WITH SERVICE NEEDS AND YOUTH IN CRISIS

FWSN Status

The bill changes the criteria under which juvenile courts can classify a family as a FWSN. Currently, juvenile courts give the classification to a family with a child under age 16 who (1) has run away without just cause or (2) is beyond his parents' control, truant or habitually truant, or continuously and overtly defiant of school rules and regulations. Families with a child age 13 through 15 who has engaged in sexual intercourse with someone not more than two years older or other unspecified "indecent or immoral conduct" can also be given this classification.

The bill establishes as the definition of "run away" leaving, for at least 24 hours and without cause, the parental home or other properly authorized and lawful place of abode. It eliminates a child's sexual, immoral, or indecent behavior as a basis for assigning this classification. And it specifies that, in addition to being beyond parental control, the child must be defiant and rebellious.

As of October 1, 2006, all 16-year old YIC will also fall within the FWSN classification. As of October 1, 2007, the remaining YIC (17-year olds) will also fall under this classification.

YIC Status

Currently, the YIC classification is for 16- and 17-year olds who, within the past two years, have run away without cause, are beyond parental control, or have four unexcused absences from school in any one month or 10 in any school year. The bill eliminates the two-year time limit and the school absence provisions. In place of the latter, it requires that the court find them truant, habitually truant, or continuously and overtly defiant of school rules and regulations.

The bill also adds the requirement that children beyond parental control also be defiant and rebellious.

YIC Procedures and Sanctions

The bill applies the statutory procedures and sanctions for FWSN cases to YIC cases. Currently, courts must follow policies established by the

chief court administrator when determining whether a youth is a YIC. The YIC law authorizes courts to make orders, including those:

1. prohibiting the youth from driving for a court-prescribed period,
2. requiring work or community service,
3. mandating attendance in an educational program in the local community, and
4. requiring mental health services.

The law does not specify what the court can do if a YIC violates its order. But it cannot find him delinquent or place him in detention or a correctional facility.

FWSN Procedures and Sanctions. The FWSN statute contains detailed procedural requirements for determining whether a child is a FWSN. By law, a FWSN complaint first goes to a juvenile probation officer who assesses the child and family. If the probation officer determines a child could be a FWSN, he can either refer the child to a community-based agency or, if the case is more serious, petition the court to intervene. The latter step triggers a court adjudicatory hearing to determine whether the child is a FWSN.

If after the adjudicatory hearing the court finds the child to be a FWSN, it can:

1. refer the child to DCF for voluntary mental health services, to a public or private school (if the child is a FWSN solely because of truancy), or a community agency;
2. commit the child to DCF for up to 18 months;
3. place the child under court probation supervision;
4. if the child is a FWSN because of sexual activity, refer him or her for participation in teen pregnancy or sexually transmitted disease education programs run by a youth service bureau or other community agency and require him or her to perform community service in a hospital, AIDS, or other related program;

5. issue appropriate orders to the parents;
6. require the child to provide restitution to any victims; and
7. issue any other orders necessary to punish or deter the child or protect the public.

A FWSN child who violates a court order can be adjudicated as a delinquent and face sanctions, including detention. But (1) the child cannot be held in detention before a delinquency hearing for more than 72 hours and (2) if the court commits him to DCF or places him in a Judicial Department facility under the auspices of the Office of Alternative Sanctions, the judge must determine no less restrictive alternative is available.

BACKGROUND

Related Bill

sSB 1130 allows courts to impose community service and fines on a truant FWSN child's parents or guardians when they are uncooperative with the school's efforts to solve the problem.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 30 Nay 9